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Attorneys for Plaintiffs (Co-counsel information on next page)

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 KOLETTE A. PAGE and CLETUS M.
12 PAGE, individually and on behalf of
13 their individual retirement accounts,
14 Plaintiffs,

15 v.

16 MINNESOTA LIFE INSURANCE
17 COMPANY, a Minnesota corporation;
18 SHURWEST HOLDING COMPANY,
19 INC., an Arizona corporation;
20 SHURWEST, LLC, an Arizona limited
21 liability company; HAPPY STATE
22 BANK dba GOLDSTAR TRUST
23 COMPANY, a Texas business entity
24 (corporate status unknown); FUTURE
25 INCOME PAYMENTS, LLC, a
26 Delaware limited liability company;
27 CMAM, INC. dba HERITAGE
28 FINANCIAL SERVICES, a California
corporation; ALBERT ANDREW
MANFRE, an individual; JEANETTE
MANFRE, an individual; MATTHEW
LEE BIESER, an individual; and DOES
1-10, inclusive,
Defendants.

Case No.: 8:18-cv-01208-AG-KES

**PLAINTIFFS' FIRST
AMENDED COMPLAINT**

Complaint Filed: July 9, 2018
Trial Date: January 28, 2020

DEMAND FOR JURY TRIAL

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Attorneys for Plaintiffs

1 Plaintiffs Kolette A. Page (“Kolette”) and Cletus M. Page (“Cletus”)
 2 (collectively, “Plaintiffs”) allege the following against Defendants Minnesota Life
 3 Insurance Company (“Minnesota Life”), Shurwest Holding Company, Inc. and
 4 Shurwest, LLC (collectively, “Shurwest”), Happy State Bank dba Goldstar Trust
 5 Company (“GoldStar”), Future Income Payments, LLC (“FIP”), CMAM, Inc. dba
 6 Heritage Financial Services (“Heritage”), Albert Andrew Manfre (“Albert”),
 7 Jeanette Manfre (“Jeanette”) and Matthew Lee Bieser (“Bieser”) (collectively,
 8 “Defendants”):

9 I. SUMMARY OF CLAIMS

10 1. Defendants conspired to defraud Plaintiffs, an elderly and vulnerable
 11 retired California couple, out of their irreplaceable retirement and life savings
 12 exceeding \$1,300,000.

13 2. Shurwest, through its employee and senior executive Melanie Schulze-
 14 Miller, recruited Minnesota Life appointed agents, including Defendants Heritage,
 15 Albert, Jeanette and Bieser (collectively, the “Heritage Defendants”), to promote
 16 and market to vulnerable California retirees a “Structured Cash Flow” investment
 17 program. Shurwest trained and encouraged the appointed agents, including the
 18 Heritage Defendants, to sell the Structured Cash Flow program which consisted of
 19 investments in FIP and in Minnesota Life insurance policies. Plaintiffs were
 20 victims of this conspiracy.

21 3. The Structured Cash Flow program used retirees’ individual retirement
 22 account (“IRA”) assets to purchase fixed income streams from loans issued by FIP
 23 to retirees and pensioners secured by, or issued in return for, the sale of the fixed
 24 income stream of the retirees and pensioners.

25 4. Structured Cash Flow program participants liquidated their IRAs and
 26 transferred the proceeds to GoldStar which custodied the accounts and received
 27 proceeds from the FIP securities investments and applied them to the IRAs.
 28

1 5. The FIP offering was an unlicensed, unregistered and non-exempt
2 securities offering by FIP, with its principal place of business in Irvine, California.
3 It is a fraudulent investment peddled by the Defendants including Minnesota Life,
4 Shurwest, GoldStar, Heritage, Albert, Jeanette and Bieser.

5 6. None of the Defendants possessed the necessary state and/or federal
6 securities licenses from the United States Securities and Exchange Commissions
7 (“SEC”) and/or the Financial Industry Regulatory Authority (“FINRA”) licenses to
8 make securities recommendations vis-a-vis liquidating the retirees’ retirement
9 investments and/or selling them the Structured Cash Flow program consisting of
10 FIP and Minnesota Life insurance to fund each other.

11 7. The Heritage Defendants, through their employee/appointed agent
12 Bieser, induced Plaintiffs to liquidate their conservatively invested life savings
13 retirement investments estimated at over \$1,300,000 and to transfer all the proceeds
14 to GoldStar. GoldStar, an IRA custodian, played a critical role in the conspiracy by
15 allowing Defendants to access the substantial, tax-deferred assets in Plaintiffs’
16 IRAs without any checks and balances or any supervisory measures in place to
17 protect the seniors against the violations of federal and state laws.

18 8. GoldStar permitted the Heritage Defendants, Shurwest, Minnesota Life
19 and FIP to induce vulnerable seniors to make taxable and tax-penalty distributions
20 from their IRAs to purchase FIP and the Minnesota Life insurance. GoldStar knew,
21 having custodied many dozens of Cash Flow Structure programs for these co-
22 conspirators, that senior citizen investors were putting their conservative retirement
23 “nest eggs” at considerable risk. The securities laws mandate financial institutions
24 to identify, investigate and report suspicious or violative activities, yet GoldStar
25 flouted its responsibilities because it was a co-conspirator in the scheme.

26 9. After the proceeds were transferred to GoldStar, on the Heritage
27 Defendants’ recommendation (through Bieser), GoldStar made taxable distributions
28 to Plaintiffs from their IRAs to purchase large permanent Minnesota Life insurance

1 policies and used the remaining IRA funds to purchase concentrated positions in
2 FIP securities. GoldStar made subsequent taxable distributions from FIP securities
3 proceeds to Plaintiffs for them to pay premiums on the Minnesota Life insurance
4 policies.

5 10. For all of these transactions involving GoldStar, GoldStar was the
6 Plaintiffs' agent, thereby it knowingly and purposefully conducted ongoing
7 business activities in California with California senior citizen residents.

8 11. GoldStar also conducted ongoing business activities, in connection
9 with Plaintiffs' action, with the Heritage Defendants and FIP, all of whom were
10 domiciled in Southern California. GoldStar thereby knowingly and purposely
11 engaged in the business activities at issue in this action in the State of California.

12 12. Defendants are liable for these unlawful acts under statutory strict
13 liability as well as intentional torts and negligence. The strict liability claims do not
14 require proof of causation or intent and the statutory remedy is, *inter alia*,
15 rescission of all the transactions.

16 13. Each of the Defendants profited from their roles in the conspiracy.

17 14. The Heritage Defendants and Shurwest received commissions and
18 other financial remuneration from Minnesota Life on their sales of the Minnesota
19 Life insurance policies.

20 15. Minnesota Life received hundreds of thousands of dollars in premium
21 payments from Plaintiffs' insurance policies. Minnesota Life also received interest
22 on loans on the insurance policies that Plaintiffs were forced to take in order to pay
23 unexpected tax liabilities from the recommended IRA distributions.

24 16. GoldStar received fees for serving as the custodian of the assets and
25 received other remuneration as the custodian of the assets, i.e. the assets
26 substantially increased their asset base and investment capital as a financial
27 institution.
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1 escrow/payment agent. It is not “qualified” to do business in the State of
2 California. It unlawfully engaged in business with California residents.

3 22. Defendant FIP is a Delaware limited liability company, registered to
4 do business in California, with an office located in Irvine, California. On
5 information and belief, FIP specializes in issuing loans to pensioners in return for
6 their pension payments and then bundles the loans and issues unlicensed, non-
7 exempt securities to investors backed by the pension payments. FIP is not
8 registered with the SEC, FINRA or the California Department of Business
9 Oversight (“DBO”) and is not exempt from securities registration. It unlawfully
10 engaged in securities transactions with residents of the State of California.

11 23. Defendant CMAM, Inc. dba Heritage Financial Services (Heritage) is
12 a California corporation located in Lake Forest, California. It also does business as
13 HFIS Insurance Services. On information and belief, Defendant Albert Manfre is
14 the President and owner of Heritage. Heritage’s predecessor, which was in the
15 same line of business, located at the same address, and also owned by Albert
16 Manfre, was called Albert Andrew, Inc. and did business as Security Financial
17 Group. Heritage is licensed to sell Life and Accident Insurance by the California
18 Department of Insurance (“DOI”) as CMAM, Inc. dba HFIS Insurance Services
19 with CA Ins. Lic. No. 0G98543. It is not registered with the SEC, FINRA or the
20 DBO and is not authorized to offer or sell securities.

21 24. Albert Andrew Manfre (Albert) is an individual residing, on
22 information and belief, in San Juan Capistrano, California, and is the President of
23 Heritage and its now dissolved predecessor Albert Andrew, Inc. He is also an
24 appointed agent of Minnesota Life. Albert is licensed to sell life and accident
25 insurance by the DOI with CA Ins. Lic. No. 0786630. On information and belief, he
26 is married to defendant Jeanette.

27 25. Defendant Jeanette Manfre (Jeanette) is an individual residing, on
28 information and belief, in San Juan Capistrano, California, and is employed by

1 Heritage. Plaintiffs are informed and believe that she is the CEO of Heritage. She is
 2 also an appointed agent of Defendant Minnesota Life. Jeanette is licensed to sell
 3 life and accident insurance by the DOI with CA Ins. Lic. No. 0H24714. Plaintiffs
 4 are informed and believe that she is married to Albert.

5 26. Defendant Bieser is an individual residing in California with a last
 6 known address in Costa Mesa, California. Bieser is licensed to sell life and
 7 accident insurance by the DOI with CA Ins. Lic. No. 0680265. Bieser is
 8 deceptively identified as an “account representative” on the Plaintiffs’ IRAs under
 9 the custodianship of GoldStar. Bieser is also deceptively identified as an “advisor”
 10 in annual reports provided to Plaintiffs by Minnesota Life. Bieser does not now
 11 hold, and has never held, securities licenses with the SEC, DBO or FINRA and is
 12 not authorized to effectuate or recommend securities transactions for customers.

13 27. Plaintiffs are unaware of the true names and capacities, whether
 14 individual, corporate, agent, representative, or otherwise, of the Defendants named
 15 herein as DOES 1 through 10 and therefore sue such Defendants by such fictitious
 16 names pursuant to Local Rule 19-1. Plaintiffs are informed and believe, and thereon
 17 allege, that each of the Defendant DOES is in some manner responsible for the acts
 18 and occurrences alleged herein; and that each DOE Defendant is therefore liable to
 19 Plaintiffs as alleged herein. Plaintiffs will seek leave of Court pursuant to Federal
 20 Rule of Civil Procedure 15 to amend this complaint to set forth the true names and
 21 capacities of these fictitiously named Defendants when they are ascertained.

22 28. Plaintiffs allege, on information and belief, that, at all material times
 23 herein mentioned, each Defendant was the agent, principal, servant, representative,
 24 employer, employee, joint venturer, co-conspirator, partner, parent, subsidiary,
 25 affiliate and/or alter ego of each and every other Defendant and, in doing the things
 26 hereinafter alleged, was acting within the course and/or scope of such authority as
 27 the agent, principal, servant, representative, employer, employee, joint venturer, co-
 28 conspirator, partner (of any kind), parent, subsidiary, affiliate, and/or alter ego with

1 the authority and consent of the remaining co-Defendants except where otherwise
2 specifically described.

3 29. Plaintiffs are informed and believe, and on that basis, allege that
4 Defendants conspired to and did commit and/or aided and abetted in committing the
5 inequitable, tortious and/or unlawful acts herein alleged in furtherance of their
6 conspiracy to accomplish their unlawful purposes. Defendants, and each of them,
7 caused injury to Plaintiffs.

8 **III. JURISDICTION AND VENUE**

9 30. Jurisdiction and venue are proper in this Court based on federal
10 question jurisdiction pursuant to 28 U.S.C. § 1331.

11 31. Venue is appropriate in this District under 28 U.S.C. § 1391(b)(2)
12 because a substantial part of the events or omissions giving rise to the claim
13 occurred and a substantial part of property that is the subject of the action is situated
14 in this District in that the relationships and conduct at issue in this case were
15 entered into with and affected Plaintiff-residents of this District.

16 32. Further, pursuant to, *inter alia*, Cal. Corp. Code § 25550, Defendants
17 are subject to jurisdiction in this venue due to their lack of licensing, registration,
18 and/or certification as alleged in more detail below.

19 33. This Court has supplemental jurisdiction over the state law claims for
20 relief under 28 USC §1367.

21 **IV. ALLEGATIONS SPECIFIC TO PERSONAL JURISDICTION** 22 **OVER SHURWEST**

23 34. The Heritage Defendants are domiciled in California and Shurwest
24 was in regular communications with these California co-Defendants. Together,
25 Shurwest and the Heritage Defendants conspired with FIP, Minnesota Life and
26 GoldStar to liquidate Plaintiffs' IRA accounts and to sell them FIP and Minnesota
27 Life investments. Shurwest purposefully directed their conduct to California
28 directly with Plaintiffs and directly with the California co-Defendants.

1 35. Bieser told Plaintiffs that he had been introduced to the Structured
2 Cash Flow program by Shurwest. Bieser told Plaintiffs that his contact at Shurwest
3 was Melanie Schulze-Miller and that Shurwest recommended and promoted the
4 Structured Cash Flow program to him for sale to senior citizens with a retirement
5 portfolio. The Shurwest connection was conveyed to build trust and confidence in
6 the recommended program because, according to Bieser, Shurwest had business
7 contracts with Minnesota Life and FIP.

8 36. Ms. Schulze-Miller and Shurwest provided, in part, back-office
9 operations to the Heritage Defendants on behalf of Minnesota Life and FIP for
10 processing the insurance and investments. But the back-office operations were only
11 part of Shurwest's role in this scheme. The documents produced by Bieser and
12 Minnesota Life show that Ms. Schulze-Miller regularly communicated and
13 interfaced by phone and email with FIP and GoldStar, as well as with Bieser and
14 Heritage about FIP and GoldStar. Ms. Schulze-Miller provided logistical, financial,
15 tax and other advice and support to facilitate the Structured Cash Flow program
16 utilizing Minnesota Life and FIP investments. Shurwest was the intermediary or
17 "middle man" between Heritage and Minnesota Life. Plaintiffs would not have
18 been harmed but for Shurwest's promotion, facilitation and implementation of the
19 investments at issue. Shurwest purposely directed its acts to the California co-
20 Defendants and to the California-domiciled Plaintiffs.

21 37. Bieser assured Plaintiffs that Shurwest vetted and endorsed the
22 Structured Cash Flow program and Shurwest's endorsement further guaranteed the
23 program as risk-free and safe.

24 38. On or about January 17, 2017, Plaintiffs had a conference call with
25 Shurwest's Ms. Schulze-Miller and Bieser. Bieser needed guidance on how to
26 structure the transfer of money from Plaintiffs' GoldStar IRA accounts to
27 Minnesota Life to cover Plaintiffs' policy premiums. Bieser depended on
28 Shurwest's Ms. Schulze-Miller to determine how exactly Plaintiffs were to get

1 money from their GoldStar IRA to Minnesota Life for payment of their policy
2 premiums. During the call, Bieser was at Plaintiffs' home in California, and
3 interfaced by telephone with Shurwest's Ms. Schulze-Miller. Shurwest knew and
4 understood that Plaintiffs were California residents and the purpose of the call was
5 to facilitate and recommend investment strategies for which Shurwest would
6 receive financial compensation.

7 39. Bieser put Ms. Schulze-Miller on speaker and Plaintiffs listened as she
8 explained that she would make arrangements with GoldStar for a transfer from
9 Plaintiffs' GoldStar IRA to their bank in California and then Plaintiffs would need
10 to wire the money to Minnesota Life. Plaintiffs followed Shurwest's investment
11 advice on the call.

12 40. Later, in or about April 2018 when Plaintiffs had to pay the tax
13 liabilities created by their GoldStar IRA distributions, Plaintiffs were forced to take
14 loans from Minnesota Life on their insurance policies. Shurwest's Ms. Schulze-
15 Miller stepped in to assist and advise the Heritage Defendants, specifically Bieser
16 and his assistant, about the steps Plaintiffs needed to take to obtain loans, the status
17 of the loans, and when the loan proceeds were likely to be received by Plaintiffs.
18 All of Shurwest's investment/financial advice was knowingly made to Plaintiffs,
19 California senior citizen customers, because Shurwest would receive financial
20 compensation for doing so.

21 41. While Plaintiffs primarily interacted with Bieser and Heritage, Bieser
22 and Heritage submitted the documents Plaintiffs returned to them to Shurwest for
23 review and completeness. Shurwest then transmitted the documents to Minnesota
24 Life. Shurwest's acts to assist and facilitate Plaintiffs' transactions with Minnesota
25 Life were done for financial compensation.

26 42. Shurwest is and was licensed with the California Department of
27 Insurance to perform insurance services. The Heritage Defendants are authorized
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1 agents of Shurwest, all doing business in the State of California and conducting
2 insurance business with the Plaintiffs.

3 43. By telephone and email to Bieser and Heritage in California, Shurwest
4 also advised Bieser and Heritage of the information they needed to obtain from
5 Plaintiffs regarding the Minnesota Life policies and transmitted instructions from
6 Minnesota Life to Bieser and Heritage. Because Shurwest was the intermediary
7 between Heritage and Minnesota Life, Shurwest received and reviewed Plaintiffs'
8 Minnesota Life insurance applications in or about November 2016—which
9 included the address of Plaintiffs' California residence. As such, Shurwest knew
10 from essentially the outset of Plaintiffs' relationship with Heritage that Plaintiffs
11 were California residents.

12 44. Shurwest's solicitation of Structured Cash Flow program participants
13 through the California-resident Heritage Defendants was not limited to Plaintiffs.
14 Plaintiffs are informed and believe that there were many other California-resident
15 retirees—at least a dozen others—who Shurwest solicited through the Heritage
16 Defendants to invest in the Structured Cash Flow program and who lost their
17 retirement funds as a result.

18 45. Court filings from Ms. Schulze-Miller in *Shurwest, LLC, v. Schulze-*
19 *Miller, et al.*, Case No. CV2018-004665, initiated in May 2018 in Arizona Superior
20 Court also evidence the extent of Shurwest's complicity in and benefit from the
21 Structured Cash Flow program.

22 46. In her June 2018 cross-complaint against Shurwest, Ms. Schulze-
23 Miller stated in a publicly-filed court document that for life insurance products
24 distributed through Shurwest, such as Plaintiffs' Minnesota Life policies, policy
25 premiums were funded by policyholders in a variety of ways, including through
26 cash, brokerage accounts, annuity stream, or via alternative funding. Alternative
27 funding of life insurance premiums typically involves the use of third party service
28

1 providers who facilitate the tax-advantaged transfer of monies from the
2 policyholder to the insurer.

3 47. One of these alternative funding service providers was FIP. Ms.
4 Schulze-Miller pled in her action that Shurwest accepted the use of FIP as an
5 alternative funding service provider. Shurwest benefited from FIP's facilitating the
6 funding of life insurance policies on which Shurwest received a commission.

7 48. Ms. Schulze-Miller also pled that Shurwest was aware that FIP would
8 pay a referral source when a prospective policyholder utilized FIP's services. Prior
9 to April/May 2018, according to Ms. Schulze-Miller, Shurwest never objected to
10 the use of FIP for funding life insurance policies distributed through Shurwest.

11 49. Further, Ms. Schulze-Miller had a Shurwest-affiliated business, MSJM
12 Financial, LLC. Ms. Schulze-Miller received payment from FIP when FIP
13 processed investments in FIP securities from potential life insurance policyholders
14 who obtained policies through Shurwest. Ms. Schulze-Miller disbursed payments
15 received from FIP to herself and other Shurwest employees, including Nick
16 Johnson and Michael Seabolt. Shurwest either knew or should have known that
17 Ms. Schulze-Miller was openly conducting the FIP business during normal business
18 hours and from her Shurwest office space. Further, Shurwest's Ms. Schulze-Miller
19 conducted these activities at or around the same time that Shurwest openly
20 promoted and trained appointed insurance agents to sell the Structured Cash Flow
21 program.

22 50. Despite Shurwest's knowledge of the payments received by Mr.
23 Seabolt from Ms. Schulze-Miller, Ms. Schulze-Miller stated that Shurwest took no
24 disciplinary action against him. Instead, after Ms. Schulze-Miller's termination, she
25 states that Shurwest promoted Mr. Seabolt to Ms. Schulze-Miller's former position
26 as Director of Life Insurance and that Shurwest withheld no wages or commissions
27 from Mr. Seabolt as a result of his dealings with Shurwest's Ms. Schulze-Miller or
28 FIP.

1 51. After the Structured Cash Flow program collapsed, both Bieser and
2 Albert made statements to Plaintiffs implicating themselves and the other
3 Defendants in the conspiracy and/or joint venture to defraud Plaintiffs and others
4 like them. In calls to Plaintiffs on June 1, June 22, and July 2, 2018 (by Albert),
5 and June 25, 2018 (by Bieser), Bieser and Albert told Plaintiffs, among other
6 things, that Shurwest promoted and offered the Structured Cash Flow program.

7 52. During a June 1, 2018 call with Plaintiffs, Albert stated that, “Three
8 people to sue are Shurwest, Goldstar and FIP.” He further stated that “all qualified
9 money like ours went through Goldstar,” and that “even though Goldstar sent a
10 letter saying they are not responsible they are completely responsible.”

11 53. During those calls Bieser and Albert also told Plaintiffs repeatedly that
12 Plaintiffs’ money was safe and that if they had to, they would sue Shurwest because
13 Shurwest recommended the program to them. At other times, Albert told Plaintiffs
14 that he was in communication with Ron Shurts, Shurwest’s CEO, and that Shurwest
15 was going to remunerate the customers who lost money with the Structured Cash
16 Flow program. Albert made these statements to Plaintiffs numerous times, both in
17 person and on weekly telephone calls after FIP’s collapse – specifically, that
18 Shurwest is taking responsibility for the situation and will reimburse the harmed
19 customers.

20 54. Bieser also acknowledged that he had marketed the Structured Cash
21 Flow program to Plaintiffs as “completely safe” and that Bieser and the Heritage
22 Defendants knew that Plaintiffs had lost all of their retirement money and that the
23 Heritage Defendants were going to make things right.

24 55. The Heritage Defendants, on behalf of themselves and the other
25 Defendants, pressured Plaintiffs and other clients in 1Q18 and 2Q18 to retain their
26 selected lawyer to pursue FIP and Shurwest. The Heritage Defendants made certain
27 that Plaintiffs received these lawyer solicitation proposals, none of which Plaintiffs
28 signed. Their acts show ongoing breach of fiduciary duties, misrepresentations and

1 fraudulent concealment of material facts. They promised Plaintiffs that their
2 lawyer, if retained, would be able to get back their money from Shurwest and FIP
3 without Plaintiffs having to do anything or paying any of the legal fees.

4 **V. ALLEGATIONS SPECIFIC TO PERSONAL JURISDICTION**
5 **OVER GOLDSTAR**

6 56. GoldStar was not authorized to transact business in California so it
7 used the other Defendants as its agents to market its custodial services to vulnerable
8 retirees in California.

9 57. GoldStar regularly conducted ongoing business with the Heritage
10 Defendants knowing that these co-Defendants were domiciled in the State of
11 California. GoldStar interfaced with the Heritage Defendants for customer referrals
12 to serve as custodian of their customer assets.

13 58. The Heritage Defendants referred Plaintiffs and GoldStar to each
14 other. Plaintiffs had never heard of GoldStar before, but Bieser told them all
15 “qualified” money such as in Plaintiffs’ IRAs had to go through GoldStar to
16 participate in the Structured Cash Flow program. So Plaintiffs didn’t have a choice.

17 59. Indeed, Bieser on behalf of the Heritage Defendants presented
18 Plaintiffs with the GoldStar documents necessary to open their GoldStar IRAs at
19 the same time that he had them fill out the paperwork for their FIP investment. As
20 was his practice, Bieser personally brought the documents to Plaintiffs’ home and
21 did not give Plaintiffs a chance to review the documents before having them
22 complete the documents. Bieser sat with them while they filled out the paperwork
23 and then took all the documents afterwards. Bieser had gained Plaintiffs’ trust
24 through numerous in-person visits so Plaintiffs dutifully completed the paperwork
25 as instructed without reviewing the documents with the scrutiny they otherwise
26 would have.

27 60. Bieser took the paperwork, including the GoldStar agreements after
28 Plaintiffs completed them and did not leave a copy with Plaintiffs. In keeping with

1 his role as GoldStar's agent, Bieser transmitted the GoldStar agreements directly to
2 GoldStar. These facts show Bieser's actual authority to solicit customers on
3 GoldStar's behalf as its agent.

4 61. At the same time, in GoldStar's "Individual Retirement Custodial
5 Account Agreement" which GoldStar required and which Bieser had Plaintiffs
6 complete as part of the packet of documents, GoldStar stated that it was acting as
7 Plaintiffs' "agent." A representative of GoldStar signed the agreements on
8 GoldStar's behalf. The agreements included Plaintiffs' California address, so
9 GoldStar knowingly contracted with California residents for a business relationship
10 that was to last five years. Further, the agreement was executed by Plaintiffs in
11 California.

12 62. GoldStar regularly conducted ongoing business with FIP knowing that
13 its principal place of business was located in Irvine, California. GoldStar's
14 relationship with FIP was so close that in an April 2018 letter to investors, FIP
15 referred to GoldStar as its "partner."

16 63. According to emails produced by Bieser, Ms. Schulze-Miller would
17 contact FIP to set up distributions from Plaintiffs' GoldStar IRAs to fund their
18 Minnesota Life insurance policies. For instance, in an email dated January 19,
19 2018, Ms. Schulze-Miller contacted Michelle Grant at FIP for her to "have
20 GoldStar process the attached two distributions for Kollette page and cletus page
21 [sic]. We have done distributions before so it should be verified, but if it needs to be
22 verified have [GoldStar] contact client."

23 64. GoldStar also prepared specific customer agreements for the
24 Structured Cash Flow program. GoldStar required Plaintiffs to complete an
25 "Account Representative and Factoring Company Form (for Structured Cash
26 Flows." This form came pre-filled with FIP as the "factoring company" and email
27 addresses for FIP including "info@structuredcashflows.com".
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1 65. Despite, or likely because of, the close relationship between GoldStar
2 and FIP, GoldStar failed to disclose regulatory issues facing FIP during Plaintiffs’
3 purchase of FIP securities in late 2016 and other issues alleged above such as the
4 taxable nature of Plaintiffs’ IRA distribution. But later GoldStar, on information
5 and belief, actively concealed its discovery of additional regulatory issues which
6 precipitated the collapse of FIP. Specifically, in early 2018, GoldStar failed to
7 disclose to Plaintiffs that it had stopped accepting new investments in FIP due to
8 the regulatory issues FIP faced. During that same time, Plaintiffs had become
9 concerned that they had not received the distributions they were entitled to from
10 FIP. So through Bieser and directly themselves, Plaintiffs sought payment of
11 amounts owed to them as well as an explanation for the delayed payment from
12 GoldStar.

13 66. GoldStar also dealt directly with Shurwest regarding Plaintiffs’ IRAs.
14 In a March 2018 email to Bieser and his assistant, Ms. Schulze-Miller of Shurwest,
15 detailed her communications with GoldStar regarding GoldStar’s rejection of her
16 attempt to process distributions on behalf of Shurwest’s “clients,” i.e., Plaintiffs—
17 even though GoldStar had allowed her to authorize such distributions on Plaintiffs’
18 behalf in the past. Her email showed that as early as March 2018, GoldStar had
19 instituted fraud alerts and additional security measures on custodial IRA accounts
20 with investments in FIP. But GoldStar did not advise the Plaintiffs that there was
21 any issue with FIP or Plaintiffs’ FIP investment.

22 67. GoldStar did not make any statement until the letter dated April 17,
23 2018 which GoldStar sent only after FIP’s letter dated April 10, 2018 in which FIP
24 implicated GoldStar as FIP’s “partner” and complicit in the implosion of FIP. For
25 the first time, in GoldStar’s April 2018 letter, GoldStar admitted that it had
26 previously stopped accepting additional investments in FIP or its related entities in
27 existing customer accounts and that it was unwilling to act as custodian for new
28 customers wishing to invest in FIP or its related entities.

1 68. GoldStar serviced Plaintiffs' IRA accounts domiciled in California as
2 well as approximately a dozen other California customers shared by the Heritage
3 Defendants and GoldStar.

4 69. GoldStar served an integral role in Defendants' conspiracy. GoldStar
5 knew or should have known that the Heritage Defendants, FIP, Shurwest and
6 Minnesota Life targeted retirees and senior citizens with substantial retirement
7 assets.

8 70. In order to gain access to the seniors' retirement assets, Defendants
9 needed an IRA custodian willing to participate meaningfully in the conspiracy by
10 ignoring securities laws, banking laws, insurance laws and the prohibition against
11 defrauding senior citizens. GoldStar assumed that role for the Co-Defendants,
12 including the California domiciled Heritage Defendants. GoldStar turned a blind
13 eye to these illegal and unethical practices. The ties to California are substantial –
14 the Heritage Defendants promoting GoldStar as the custodian were California
15 domiciled.

16 71. And given GoldStar's close relationship with FIP and the fact that
17 GoldStar is a division of a bank subject to requirements to monitor accounts for
18 suspicious activity, it is not credible that GoldStar was unaware of the regulatory
19 issues faced by FIP at the time of Plaintiffs' investment. Yet despite the "Individual
20 Retirement Custodial Account Agreement" in which GoldStar stated that it was
21 acting as Plaintiffs' "agent," GoldStar failed to disclose this information to
22 Plaintiffs.

23 72. GoldStar also provided purported legitimacy to insurance agents such
24 as the Heritage Defendants—who were not licensed or registered to provide
25 securities advice or sell securities—by characterizing them as "account
26 representatives" and "broker dealers" authorized to engage in the Structured Cash
27 Flow program transactions when in fact, they were not so authorized. GoldStar's
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1 representations as “account representatives” and “broker-dealers” for the Heritage
2 Defendants were false and misleading descriptions.

3 73. GoldStar effectuated taxable distributions to the Structured Cash Flow
4 participants from the proceeds from the FIP investments to fund large premiums on
5 permanent Minnesota Life insurance policies, sold to Structured Cash Flow
6 participants as part of the program.

7 VI. OPERATIVE FACTS

8 74. In or about September 2016, Plaintiffs sought to revise trust documents
9 that had previously been prepared for them by Security Financial, a predecessor to
10 Heritage also owned by Albert.

11 75. When Plaintiffs contacted Security Financial, they were informed of
12 the name change and told that Heritage would be able to take care of their trust
13 modifications. The employee who previously assisted Plaintiffs was no longer with
14 the company, so Heritage assigned Bieser to assist them.

15 76. California *Ins. Code* § 785.4 provides that “[it] shall be unlawful for
16 any insurance agent who is not licensed as an attorney to deliver to a person who is
17 65 years of age or older, a living trust or other legal document, other than an
18 insurance contract or other insurance product document, if a purpose of the delivery
19 is to sell an insurance product.”

20 77. Heritage, Albert, Jeanette, Shurwest and Bieser are not licensed
21 attorneys and violated Section 785.4 by preparing and delivering Plaintiffs’ trust
22 revisions. Defendants Minnesota Life knew or should have known of the Section
23 785.4 violations by its appointed agents and affiliates.

24 78. Heritage, Albert, Jeanette, Shurwest, Minnesota Life and Bieser used
25 the trust revisions to gain access to Plaintiffs’ securities portfolio exceeding one
26 million dollars in their IRAs managed by Lincoln Financial Group (“Lincoln
27 Financial”). Plaintiffs Kolette and Cletus accrued their savings over decades of
28 service—Kolette, 35 years with Avery Dennison and Cletus, 45 years with the L.A.

1 Times. These Defendants began a campaign to induce Plaintiffs to take custody of
2 their assets through GoldStar, to induce them to buy large permanent life insurance
3 policies from his principal Minnesota Life, and to invest in the FIP securities
4 offering—in violation of *Ins. Code* § 785.4 and other laws as alleged in this
5 complaint.

6 79. From September 2016 to December 2016, Bieser visited Plaintiffs’
7 home several times to review their investment portfolio and to make investment,
8 securities and insurance recommendations on behalf of the Defendants. Sometimes
9 Bieser visited them alone, and sometimes his pregnant wife or infant child joined
10 him. But each time, Bieser pressured Plaintiffs to buy the insurance policies, to
11 transfer their IRAs with Lincoln Financial to Defendants’ management and to
12 purchase FIP. Bieser took all these steps to create a false sense of trust so he and
13 the other Defendants could deceive and defraud Plaintiffs.

14 80. Plaintiffs were vulnerable retirees, who ultimately surrendered to
15 Defendants’ aggressive and deceptive sales tactics.

16 81. Plaintiffs depended on the money in their IRAs to cover their
17 immediate living expenses in retirement. Bieser assured Plaintiffs that FIP was a
18 safe and conservative investment guaranteed to make money and that Plaintiffs
19 would receive a guaranteed return of at least 7% on their investment with complete
20 return of their principal within five years.

21 82. Bieser also promised that between the life insurance and FIP
22 investment, Kolette and Cletus would make thousands of dollars a month and
23 benefit from the life insurance policy worth millions of dollars should one of them
24 die. Bieser was so convincing in his fraudulent sales tactics that in or about
25 December 2016, Plaintiffs followed the recommendation to invest their entire life
26 savings in their recommended portfolio of Minnesota Life insurance and FIP.

27 83. On or about December 16, 2016, Bieser presented Kolette and Cletus
28 with writings to purchase the FIP securities and the Minnesota Life insurance.

1 Kolette and Cletus dutifully followed the instructions and signed the writings in
2 reliance on the promises of investment returns.

3 84. Following Bieser's recommendations, Plaintiffs liquidated their IRAs
4 with Lincoln Financial and rolled over the proceeds to GoldStar, all at Defendants'
5 directive. Also, at Bieser's directive, Plaintiffs took taxable distributions from their
6 IRAs to pay the premiums on the Minnesota Life permanent life insurance policies.
7 Plaintiffs were not informed and warned by Defendants about the adverse tax and
8 financial consequences.

9 85. At the time, Kolette's IRA with Lincoln (Account No. xxxx-6801)
10 ("Lincoln IRA") was worth \$516,907.94. Her retirement savings were invested in
11 low cost, conservative mutual funds. She liquidated all her investments and rolled
12 over the cash proceeds to GoldStar based on Defendants' unlawful advice. Kolette
13 opened a Minnesota Life "Omega Builder Indexed Universal Life" insurance policy
14 (policy no. xxx6081W) with a death benefit of \$2 million and a premium of
15 \$113,539 due annually. GoldStar transferred a distribution of \$55,000 from
16 Kolette's GoldStar IRA to Minnesota Life to cover the initial partial premium on
17 her Minnesota Life insurance policy. Shurwest set-up and supervised the transfer of
18 Kolette's GoldStar IRA distribution and the investment purchases recommended by
19 Defendants. Kolette later learned that she was taxed on this distribution, but
20 Defendants did not explain the risks versus rewards before the tax consequence was
21 incurred.

22 86. Bieser and Heritage recommended that Kolette use the remainder of
23 her life savings, roughly \$460,000, to purchase FIP securities for Kolette's
24 GoldStar IRA and GoldStar effectuated this transaction for her.

25 87. Cletus's Lincoln IRA (Account No. xxxx-5806) was worth
26 \$798,000.55 just prior to liquidation. His retirement savings was invested in low
27 cost, conservative mutual funds. He liquidated all his investments and rolled over
28 the cash proceeds to GoldStar. Cletus opened a Minnesota Life "Omega Builder

1 Indexed Universal Life” insurance policy (policy no. xxx9788W) with a death
2 benefit of \$1.8 million and a premium of \$185,705 due annually. GoldStar
3 transferred a distribution of \$96,000 from Cletus’s GoldStar IRA to Minnesota Life
4 to cover the initial partial premium on the Minnesota Life insurance policy.
5 Shurwest setup and supervised the transfer of Cletus’s GoldStar IRA distribution
6 and the investment purchases recommended by Defendants. Cletus later learned
7 that he was taxed on the distribution to fund the premium. Defendants did not
8 explain the risks versus rewards before the tax consequence was incurred.
9 Defendants deceived Plaintiffs that the transactions would be tax free.

10 88. Bieser and Heritage recommended that Cletus use the remainder of his
11 life savings, roughly \$700,000, to purchase FIP securities for Cletus’s GoldStar
12 IRA and GoldStar effectuated this transaction for him.

13 89. According to the FIP Purchase Agreement, Kolette would receive
14 monthly principal and interest payments of \$9,011.01 for five years from January
15 2017 until her initial principal investment of \$460,000 was paid plus 7% interest.
16 Cletus would receive monthly principal and interest payments of \$13,712 for five
17 years from January 2017 until his initial principal investment of \$700,000 was paid
18 plus 7% interest. However, Plaintiffs only received one check from GoldStar, made
19 out to Plaintiffs jointly, for roughly \$22,000 (after tax) in May 2018.

20 90. The monthly payments from FIP would be deposited with GoldStar
21 and then transferred to Minnesota Life to help pay the nearly \$300,000 in annual
22 premiums for Plaintiffs’ Minnesota Life insurance policies.

23 91. Shurwest, Minnesota Life, and each of the Heritage Defendants were
24 licensed to sell life insurance, not securities, such as the FIP securities they
25 recommended and induced Plaintiffs to purchase. Defendants’ conduct gives rise to
26 statutory strict liability. None of Defendants were registered as required with the
27 SEC, FINRA or the State of California as broker-dealers, brokers, associated
28 persons, investment advisers or registered investment advisory firms. Yet,

1 Defendants, including GoldStar, held themselves out to Plaintiffs as being properly
2 registered, skilled and authorized to engage in securities transactions.

3 92. Bieser, at Shurwest's direction, on behalf of the Heritage Defendants,
4 and as an actual agent of FIP and GoldStar, marketed and recommended FIP's
5 securities without an offering memorandum prior to Plaintiffs making their
6 investment, and they did not certify Plaintiffs' accreditation status or other
7 necessary steps.

8 93. As detailed above, Melanie Schulze-Miller, Shurwest's National Life
9 Director at the time, participated in and supervised the wrongdoing alleged herein
10 on behalf of Shurwest.

11 94. Albert, Jeanette and Bieser were Minnesota Life appointed agents and
12 given authority to transact business on its behalf. In account reports distributed by
13 Minnesota Life to Plaintiffs, Minnesota Life referred to Bieser as Plaintiffs'
14 "advisor" which furthered the fraud and deceit that Bieser was a registered
15 investment advisor or other skilled and licensed investment advisor.

16 95. Minnesota Life is an insurance company selling permanent life
17 insurance. It is subject to the federal Bank Secrecy Act ("BSA") and its
18 implementing regulations (Anti-Money Laundering ("AML") rules).

19 96. Pursuant to AML rules codified at 31 C.F.R. § 1025.320(a)(2)(iii),
20 Minnesota Life has a duty to report any transaction that "is conducted or attempted
21 by, at, or through an insurance company, and involves or aggregates at least \$5,000
22 in funds or other assets, and the insurance company knows, suspects, or has reason
23 to suspect that the transaction (or a pattern of transactions of which the transaction
24 is a part):... Has no business or apparent lawful purpose or is not the sort in which
25 the particular customer would normally be expected to engage, and the insurance
26 company knows of no reasonable explanation for the transaction after examining
27 the available facts, including the background and possible purpose of the
28 transaction[.]"

1 97. If Minnesota Life had performed its statutorily required duties, it
2 would have uncovered facts showing that the permanent life insurance policies
3 recommended to Plaintiffs were improper.

4 98. Minnesota Life should have determined that, per 31 C.F.R. §
5 1025.320(a)(2)(iii), the transactions “ha[d] no business or apparent lawful purpose
6 or [were] not the sort in which the particular customer would normally be expected
7 to engage.” Plaintiffs were retirees living on a limited fixed income who needed
8 their retirement savings for immediate use. Plaintiffs’ initial partial premium
9 payment for the two Minnesota Life policies was approximately \$150,000—well in
10 excess of the \$5,000 threshold from AML rules and more than 100% of Plaintiffs’
11 2017 fixed income¹.

12 99. Further, the two Minnesota Life policies called for a combined annual
13 premium of nearly \$300,000—more than 200% of Plaintiffs’ 2017 fixed income².
14 An investigation by Minnesota Life would have uncovered the fact that the only
15 reason Plaintiffs believed they could “afford” the insurance policies was
16 Defendants’ fraudulent representation that concentrating the remaining 90% of their
17 life savings³ in a single, unregistered security (i.e., FIP) would provide them with
18 sufficient distributions to cover the policy premiums. Minnesota Life should have
19 determined that such a concentrated investment was an unacceptable risk for
20 elderly, retirees such as Plaintiffs.

21 100. As such, either Minnesota Life knew of and approved its agents’
22 actions, or it ratified its agents’ actions by negligently, fraudulently or recklessly
23 performing its duties.
24

25
26 ¹ Plaintiffs’ 2017 fixed income excludes taxable distributions from Plaintiffs’ GoldStar IRAs used
to pay the Minnesota Life initial partial premiums.

27 ² See fn. 1.

28 ³ The other 10% of their life savings went to pay Minnesota Life’s initial partial premiums. In
May 2018, Plaintiffs transferred roughly \$20,000 cash, the remaining cash in their GoldStar
IRAs, to separate IRA accounts they opened for that purpose.

1 101. On information and belief, GoldStar and Shurwest were not registered
2 to do business in the State of California, although Shurwest is licensed with the
3 California Department of Insurance to do insurance business in California. As such,
4 their business activities with California resident consumers, the Plaintiffs, was
5 unlawful. These businesses never disclosed or warned Plaintiffs that they were not
6 qualified to transact business with Plaintiffs in California.

7 102. Plaintiffs dutifully entered into the transactions recommended by
8 Defendants and through March of 2018, FIP apparently made some payments to
9 Plaintiffs' GoldStar IRAs.

10 103. However, according to FIP, after making the March 2018 payment,
11 FIP ceased making any payments to investors, including Plaintiffs.

12 104. On or about April 10, 2018, FIP sent some investors and other
13 interested parties, not including Plaintiffs, a letter with re line "FIP Restructure"
14 stating that "Due to [FIP's] business and legal expenses, FIP plans are [sic] to
15 restructure its operation and to drastically cut its overhead."

16 105. Around the same time that FIP claimed it was "restructuring" it
17 circulated an undated letter stating that: "There will be NO restructuring or
18 collections by FIP in ANY state." (Emphasis removed.) Further, "FIP's final and
19 ONLY remaining task is to provide Buyers the information they need on the assets
20 they purchased."

21 106. In its April 10, 2018 letter, FIP also implicated GoldStar as liable for
22 FIP's demise stating that: "FIP has recently endured and continues to endure,
23 intense Regulatory pressure and legal expense. FIP has suffered from events like
24 Goldstar Trust, cutting their services without warning...FIP depends on various
25 service providers (Like our Sellers payment processor and our bank) to hold and
26 transfer money, facilitate the purchase and sale of income streams, (*Like Goldstar*
27 *Trust*) and otherwise keep *partner* with FIP to implement its business model."
28 (Emphasis added.)

1 107. On or about April 17, 2018, GoldStar issued a self-serving and
2 contradictory letter to Plaintiffs asserting that: it has “no business relationship” with
3 FIP despite purchasing and maintaining custody of security interests issued by FIP;
4 it is not a business partner with FIP; and it had not entered into any contracts with
5 FIP.

6 108. In its April 17 letter, GoldStar also admitted that it “has not conducted
7 any due diligence regarding the legality or appropriateness of FIP, LLC’s business
8 model.” So before placing more than \$1 million of Plaintiffs’ life savings into FIP,
9 GoldStar admitted it performed no due diligence on FIP. Restated, it did not
10 investigate whether FIP was securities-licensed or exempt from registration or
11 whether it was licensed to do business or whether it was a qualified or nonqualified
12 offering. Goldstar’s malfeasance is actionable.

13 109. Around the same time in April 2018, Plaintiffs were panicked that
14 taxes on GoldStar IRA distributions used to pay premiums on Plaintiffs’ Minnesota
15 Life policies were due. Plaintiffs rushed to take out a \$25,000 loan on Kolette’s
16 Minnesota Life insurance policy to pay for 2017 taxes on IRA distributions.
17 Plaintiffs were also forced to take a loan on Cletus’s Minnesota Life insurance
18 policy for \$33,598 to pay for 2017 taxes on IRA distributions that GoldStar
19 transferred to Minnesota Life. Plaintiffs were unaware in 2017 that they had
20 incurred nearly \$60,000 in taxes because none of the Defendants ever told Plaintiffs
21 that money transferred from their GoldStar IRAs to Minnesota Life would be taxed.
22 Minnesota Life did not investigate, as suspicious or as unsuitable transactions, the
23 fact that their customers took loans within one year of purchasing millions of
24 dollars in insurance.

25 110. In January 2018, Plaintiffs were required to take another taxable
26 distribution from their GoldStar IRA to pay \$272,000 in Minnesota Life insurance
27 premiums. This distribution will result in a likely tax liability for Plaintiffs of nearly
28 \$100,000.

1 111. This action is not the first time that Heritage or its agents have been
2 accused of taking advantage of vulnerable, elderly clients. In January 2018, the
3 California Commissioner of Insurance filed an Accusation and Petition to Remove
4 Heritage agent Mark Malatesta, aka Mark Shulzitski for “exploit[ing] elderly
5 consumers, all over the age of 75, for his own financial gain,” while he was
6 employed with Heritage from 2010 to 2016. The Commissioner sought to revoke
7 Malatesta’s licenses and licensing rights pursuant to Insurance Code section
8 1748.5(b).

9 112. Defendants GoldStar, Shurwest, the Heritage Defendants, and
10 Minnesota Life were Plaintiffs’ fiduciaries. GoldStar purported to be Plaintiffs’
11 agent. Also, Defendant Minnesota Life owed Plaintiffs fiduciary duties as principal
12 to monitor and supervise its agents Albert, Jeanette and Bieser, and they all owed
13 Plaintiffs the same fiduciary duties or at least a duty of reasonable care.
14 Additionally, the insurer, insurance broker, and insurance agent Defendants owed
15 Cletus, as a potential insured over the age of 65, duties of honesty, good faith, and
16 fair dealing pursuant to Cal. *Ins. Code* § 785.

17 113. Defendants knew or should have known that investing Plaintiffs’ life
18 savings in concentrated, speculative investments violates the law and is actionable.
19 Defendants knew or should have known that FIP was at risk of financial ruin due to
20 ongoing legal and regulatory issues, but none of the Defendants informed and
21 warned the Plaintiffs of these risks. Many of these legal issues arose prior to or
22 soon after GoldStar, Shurwest, the Heritage Defendants, and Minnesota Life
23 convinced Plaintiffs to make their life altering investment in FIP:

- 24 a. In March 2016, the Massachusetts Attorney General announced that
25 FIP agreed to provide more than \$2 million in debt relief to resolve
26 allegations that it made predatory and illegal loans to Massachusetts
27 consumers. FIP was also barred from making these loans in
28 Massachusetts in the future.

- 1 b. On November 23, 2016, the federal Consumer Financial Protection
2 Bureau served FIP with a Civil Investigative Demand, demanding
3 information related to the company's income stream-advance
4 transactions.
- 5 c. In February 2017, a month after Plaintiffs' FIP investment, the City of
6 Los Angeles filed suit against FIP, alleging that the company charges
7 usurious, hidden interest rates as high as ninety-six percent, prohibits
8 early termination of the loans (thereby ensuring that consumers
9 cannot avoid the high interest rates), and employs abusive collection
10 practices.
- 11 d. And in May 2017, FIP was the subject of investigations by state
12 regulators in New York, California, Massachusetts, Iowa,
13 Washington, and North Carolina.

14 114. Defendants fraudulently concealed these facts from Plaintiffs to
15 continue profiting from them. Plaintiffs had no knowledge or suspicion of any of
16 these issues until approximately April 2018 when FIP's President announced FIP
17 had ceased the majority of its operations and would make no further payments to
18 investors as a result of the ongoing regulatory actions and litigation FIP faced.

19 115. As alleged herein, Plaintiffs are informed and believe that all the
20 Defendants engaged in a conspiracy and/or joint venture to defraud them and other
21 vulnerable retirees like them. Defendants combined their property, skill, and
22 knowledge to that purpose. Each Defendant had a role to play in the conspiracy
23 and/or joint venture and each Defendant profited from its role.

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VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(VIOLATION OF THE FEDERAL SECURITIES ACT BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS AND DOES 1 AND 2)

116. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

117. Sections 5 and 12 of the federal Securities Act of 1933 provide registration and other requirements relating to the securities offered to Plaintiffs.

118. On information and belief, the FIP securities that the Heritage Defendants, Shurwest, and FIP offered or sold to Plaintiffs were not registered in compliance with the Securities Act.

119. Further, the Heritage Defendants and Shurwest were not properly registered, licensed, or certificated to engage in the securities transactions as alleged in this complaint, nor were they exempt.

120. The Heritage Defendants, Shurwest, and FIP also failed to disclose required information to Plaintiffs as alleged herein, including but not limited to, failing to provide Plaintiffs with a prospectus or operating memorandum for their investments.

121. Minnesota Life, GoldStar, and the other Defendants are also culpable as co-conspirators who participated in and profited from the alleged misconduct.

122. This cause of action is a statutory strict liability cause of action which does not require proof of causation or intent.

123. Plaintiffs are entitled to rescission of all transactions and/or damages and prejudgment interest and attorneys' fees and costs.

SECOND CLAIM FOR RELIEF

**(RECEIPT OF STOLEN PROPERTY IN VIOLATION OF CAL. PEN.
CODE § 496 BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

124. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

125. As alleged above, each Defendant received property, including, but not limited to, fees and commissions, which had been stolen from Plaintiffs or had been obtained from Plaintiffs in a manner that constitutes theft.

126. As defined in Penal Code § 484, “[e]very person...who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property...is guilty of theft.”

127. On information and belief, each Defendant knew that the property they received was stolen or obtained in a manner that constituted theft.

128. As a result of Defendants’ actions, Plaintiffs have been damaged in an amount to be proven at trial and are entitled to treble damages, the costs of bringing this suit, and attorneys’ fees under § 496(c).

THIRD CLAIM FOR RELIEF

**(BREACH OF FIDUCIARY DUTY BY ALL PLAINTIFFS
AGAINST ALL DEFENDANTS AND DOES 3 TO 5)**

129. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

130. A fiduciary or confidential relationship existed between Plaintiffs and each Defendant.

131. Defendants Minnesota Life, the Heritage Defendants, Shurwest, and GoldStar owed fiduciary duties by holding themselves out as brokers and financial advisers, investment advisers and skilled financial and licensed professionals with

1 authority to effect transactions in securities and investments, such as IRA rollovers,
2 the FIP securities and the insurance policies pled in this action.

3 132. Further, GoldStar, FIP and Minnesota Life owed Plaintiffs fiduciary
4 duties as a common law agent entrusted with Plaintiffs' life savings. FIP owed
5 Plaintiffs fiduciary duties based on Plaintiffs granting FIP power of attorney
6 pursuant to the purchase agreement between FIP and Plaintiffs. Defendant GoldStar
7 owed Plaintiffs fiduciary duties as securities custodian of Plaintiffs' life savings and
8 by effecting the FIP securities purchases for the benefit of Plaintiffs pursuant to the
9 purchase agreement between FIP and each Plaintiff.

10 133. Plaintiffs were retired, advanced in age, living on a fixed income and
11 had limited financial and investment acumen. Plaintiffs were vulnerable to
12 Defendants' predation and they relied on Defendants' representations of financial
13 and investment expertise and recommendations. Plaintiffs followed Defendants'
14 recommendation and advice to invest in FIP and purchase Minnesota Life
15 insurance.

16 134. Defendants betrayed the trust that Plaintiffs reposed in them and
17 breached their fiduciary duties by: (1) engaging in all acts discussed herein
18 including the registration/licensing violations; (2) putting Defendants' interests
19 ahead of Plaintiffs' interests and taking actions and making recommendations for
20 their own gain at Plaintiffs' expense; (3) concealing material facts from Plaintiffs
21 and by misleading them and deceiving them in all the acts discussed herein.

22 135. To the extent that any Defendant does not owe a fiduciary duty to
23 Plaintiffs, such Defendant is still liable for the other Defendants' breaches of
24 fiduciary duty as co-conspirators who participated in and profited from the alleged
25 misconduct.

26 136. Defendants' breaches of fiduciary duty proximately caused Plaintiffs'
27 harm.
28

137. Defendants engaged in their actions and omissions intentionally with malice, oppression, or fraud pursuant to California Civil Code §3294. Further, the individual employees of the corporate entity Defendants who committed these wrongful acts and omissions were either officers, directors, or managing agents of such Defendants or such Defendants authorized their employees misconduct or subsequently adopted or approved their wrongful conduct such that such Defendants are liable for punitive damages based on their employees' conduct.

138. Further, per California Civil Code § 3372, Defendants were persons "engaged in the business of advising others for compensation as to the advisability of purchasing, holding or selling property for investment and who represent[ed]" themselves to be experts but failed to perform with "the due care and skill reasonably to be expected of a person who is such an expert."

FOURTH CLAIM FOR RELIEF

(AIDING AND ABETTING BREACH OF FIDUCIARY DUTY BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS AND DOES 6 AND 7)

139. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

140. If any Defendant was not in a fiduciary or confidential relationship with Plaintiffs, Plaintiffs allege they aided and abetted the breaches of fiduciary duties committed by the other Defendants as alleged in this first amended complaint: they had actual knowledge of the other Defendants' breaches of fiduciary duties and provided substantial assistance or encouragement to their breaches.

141. Minnesota Life disclosed Bieser as investment "advisor" in annual policy disclosure reviews and Goldstar disclosed Bieser as an "account representative." Minnesota Life, Goldstar, and the other Defendants reinforced the other Defendants' fraud, deceit, breaches and negligence as set forth in this first amended complaint.

1 142. As a proximate result of Defendants' conduct, Plaintiffs have been
2 damaged in an amount to be determined at trial.

3 143. Defendants engaged in their actions and omissions intentionally with
4 malice, oppression, or fraud pursuant to California Civil Code §3294 and are liable
5 for punitive damages.

6 144. Per California Civil Code § 3372, Defendants were persons "engaged
7 in the business of advising others for compensation as to the advisability of
8 purchasing, holding or selling property for investment and who represent[ed]"
9 themselves to be experts but failed to perform with "the due care and skill
10 reasonably to be expected of a person who is such an expert."

11 **FIFTH CLAIM FOR RELIEF**
12 **(FINANCIAL ELDER ABUSE BY PLAINTIFF CLETUS AGAINST ALL**
13 **DEFENDANTS AND DOES 1 TO 10)**

14 145. Plaintiffs incorporate by reference all preceding and subsequent
15 paragraphs as though fully set forth herein.

16 146. Plaintiff Cletus properly asserts his rights under California's financial
17 elder abuse statute because he was a California resident and 65 years or older
18 during all relevant times.

19 147. Defendants, and each of them, are liable to Cletus because they
20 violated California's financial elder abuse statute which makes anyone liable who:
21 (i) takes, secretes, appropriates, obtains or retains, any interest in any real or
22 personal property, for a wrongful use, or with intent to defraud or both; or (ii)
23 assists in doing any of the above described acts; or (iii) does any of the above
24 described acts through undue influence.

25 148. Each Defendant is also liable as a co-conspirators who participated in
26 and profited from the alleged misconduct.

27 149. A conclusive presumption of financial abuse exists under Cal. *Welf. &*
28 *Inst. Code* § 15610.30(b) because Defendants, and each of them, knew or should

1 have known that their malfeasance was likely to be harmful to Cletus, a senior
2 citizen.

3 150. Cletus was approximately seventy-two (72) to seventy-four (74) years
4 old during the time period relevant to this complaint. Defendants and their co-
5 conspirators and aiders and abettors exerted duress, fraud, coercion and undue
6 influence over Cletus at the time of these wrongful takings alleged in this
7 complaint.

8 151. Cletus seeks attorneys' fees and costs of suit under Cal. *Welf. & Inst.*
9 *Code* §§ 15657.5(a). Cletus seeks pain and suffering damages under Cal. *Civ. Code*
10 § 3333.2 and Cal. *Welf. & Inst. Code* §15657.5(b)(1).

11 152. Cletus seeks punitive and exemplary damages and trebled damages
12 under Cal. *Civ. Code* §§ 3345 and 3294.

13 **SIXTH CLAIM FOR RELIEF**
14 **(VIOLATION OF THE CALIFORNIA CORPORATIONS**
15 **CODE BY ALL PLAINTIFFS AGAINST**
16 **ALL DEFENDANTS AND DOES 1 AND 2)**

17 153. Plaintiffs incorporate by reference all preceding and subsequent
18 paragraphs as though fully set forth herein.

19 154. California securities laws provide rules and qualifications for effecting
20 any transaction in, or inducing the purchase or sale of, any securities in the State of
21 California. Plaintiff alleges, on information and belief, that Defendants violated
22 these statutory rules.

23 155. Cal. *Corp. Code* §§ 25110 to 25130 provides that "[i]t is unlawful for
24 any person to offer or sell..." securities in the State of California without meeting
25 specific state requirements or having an exemption.

26 156. Cal. *Corp. Code* §25210 provides that persons must not effect any
27 transaction in, or induce or attempt to induce the purchase or sale of, any security in
28

1 the State of California unless the broker-dealer and agent are licensed and
2 registered.

3 157. Cal. *Corp. Code* § 25401 provides that “[i]t is unlawful for any
4 person to offer or sell a security in this state, or to buy or offer to buy a security in
5 this state, by means of any written or oral communication that includes an untrue
6 statement of a material fact or omits to state a material fact necessary to make the
7 statements made, in the light of the circumstances under which the statements were
8 made, not misleading.”

9 158. Cal. *Corp. Code* § 25501 provides in pertinent part that “[a]ny person
10 who violates Section 25401 shall be liable to the person who purchases a security
11 from him or sells a security to him, who may sue either for rescission or for
12 damages (if the plaintiff or the defendant, as the case may be, no longer owns the
13 security)[.]”

14 159. Cal. *Corp. Code* § 25501.5 provides that “[a] person who purchases a
15 security from or sells a security to a broker-dealer that is required to be licensed and
16 has not, at the time of the sale or purchase, applied for and secured from the
17 commissioner a certificate under Part 3 (commencing with Section 25200), that is
18 in effect at the time of the sale or purchase authorizing that broker-dealer to act in
19 that capacity, may bring an action for rescission of the sale or purchase or, if the
20 plaintiff or the defendant no longer owns the security, for damages.”

21 160. Here, none of the Defendants were registered, licensed and certificated
22 brokers with the SEC, FINRA or the State of California or exempt from such
23 registration, licensure, or certification. Nor were they registered, licensed and
24 certificated as investment advisors or exempt from such.

25 161. Further, GoldStar and Shurwest were not qualified to conduct business
26 in California because they never registered with the DBO.

27 162. Defendants concealed from Plaintiff that they were not registered,
28 licensed and certificated to act in their capacities as brokers and/or investment

1 advisers or to operate at all within the State of California and each Defendant is also
2 liable as a co-conspirator who participated in and profited from the alleged
3 misconduct.

4 163. For these reasons and other statutory registration and licensing issues
5 alleged in this complaint, the agreements and transactions between Defendants and
6 Plaintiffs are void.

7 164. This claim for relief is a statutory strict liability claim which does not
8 require proof of causation or intent.

9 165. Plaintiffs are entitled to rescission of all transactions plus prejudgment
10 interest, among other remedies set forth in the prayer.

11 166. Plaintiffs are also entitled to treble damages under California *Code of*
12 *Civ. P.* §1029.8 and reasonable attorneys' fees under any statute or law providing
13 such entitlement, including California *Corp. Code* §25501.5(b).

14 **SEVENTH CLAIM FOR RELIEF**

15 **(VIOLATION OF THE CALIFORNIA CONSUMER LEGAL**
16 **REMEDIES ACT ("CLRA") BY ALL PLAINTIFFS AGAINST ALL**
17 **DEFENDANTS AND DOES 1 TO 10) (INJUNCTIVE RELIEF ONLY)**

18 167. Plaintiffs incorporate by reference all preceding and subsequent
19 paragraphs as though fully set forth herein.

20 168. Cal. *Civ. Code* § 1770(a) states that "the following unfair methods of
21 competition and unfair or deceptive acts or practices undertaken by any person in a
22 transaction intended to result or that results in the sale or lease of goods or services
23 to any consumer are unlawful: ...(2) Misrepresenting the source, sponsorship,
24 approval, or certification of goods or services. (3) Misrepresenting the affiliation,
25 connection, or association with, or certification by, another...(5) Representing that
26 goods or services have sponsorship, approval, characteristics, ingredients, uses,
27 benefits, or quantities that they do not have or that a person has a sponsorship,
28 approval, status, affiliation, or connection that he or she does not have....(18)

1 Misrepresenting the authority of a salesperson, representative, or agent to negotiate
2 the final terms of a transaction with a consumer.... (26) Advertising, offering for
3 sale, or selling a financial product that is illegal under state or federal law, including
4 any cash payment for the assignment to a third party of the consumer's right to
5 receive future pension or veteran's benefits.

6 169. Defendants all misrepresented their registration, licensing, and or
7 certification to effect the transactions at issue in this case and/or to provide
8 investment advice to Plaintiffs. Defendants concealed the fact that the FIP securities
9 were not properly registered or exempt from registration. Defendants also
10 concealed from Plaintiffs regulatory actions and litigation against FIP which
11 ultimately led to FIP's demise. As principal, Minnesota Life is responsible for the
12 wrongdoing of its agents Albert, Jeanette, and Bieser.

13 170. Shurwest and GoldStar misrepresented their qualification to conduct
14 business in California. Shurwest and GoldStar held themselves out as being
15 authorized by the State of California to conduct business with Plaintiffs, California
16 residents. However, they were not so authorized.

17 171. FIP advertised, offered for sale, and sold cash payment for the
18 assignment to a third party of consumers' right to receive future pension or
19 veteran's benefits in violation of the CLRA.

20 172. Each Defendant is also liable as a co-conspirator who participated in
21 and profited from the alleged misconduct.

22 173. Pursuant to Cal. *Civ. Code* §1780(a) "[a]ny consumer who suffers any
23 damage as a result of the use or employment by any person of a method, act, or
24 practice declared to be unlawful by Section 1770 may bring an action against that
25 person to recover or obtain any of the following: (1) Actual damages, but in no case
26 shall the total award of damages in a class action be less than one thousand dollars
27 (\$1,000). (2) An order enjoining the methods, acts, or practices. (3) Restitution of
28 property. (4) Punitive damages. (5) Any other relief that the court deems proper."

174. Pursuant to Cal. *Civ. Code* § 1780(b)(1) “[a]ny consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars (\$5,000) where the trier of fact does all of the following: (A) Finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct. (B) Makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345. (C) Finds that an additional award is appropriate.”

175. The 30-day period for Defendants to cure their unlawful conduct expired without any Defendant curing such unlawful conduct. Plaintiffs seeks damages and other remedies including trebled damages, attorneys’ fees, prejudgment interest, and costs against all Defendants.

EIGHTH CLAIM FOR RELIEF
(UNFAIR BUSINESS PRACTICES IN VIOLATION OF
BUS. AND PROF. CODE SECTION 17200 BY ALL
PLAINTIFFS AGAINST ALL DEFENDANTS AND DOES 1 TO 10)

176. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

177. Defendants failed to fulfill their statutory and common law duties as alleged in this complaint. Among other things, Defendants held themselves out as qualified to purchase for Plaintiffs, and advise Plaintiffs on, FIP securities, but failed to register as such prior to purchasing securities for Plaintiffs and advising them on the purchase of securities. Shurwest and GoldStar failed to obtain authorization from the State of California to do business with Plaintiffs. And Defendants misled Plaintiffs on the advisability of purchasing FIP securities and the Minnesota Life insurance policies.

1 178. By reason of this and other fraudulent, deceptive, unfair, and wrongful
2 conduct alleged herein, Defendants have violated *California Business and*
3 *Professions Code* section 17200 et seq.

4 179. Each Defendant is also liable as a co-conspirator who participated in
5 and profited from the alleged misconduct.

6 180. Pursuant to *Bus. & Prof. Code* section 17200, et seq., Plaintiffs are
7 entitled to restitution of all amounts paid to Defendants and to injunctive relief
8 against Defendants' wrongful conduct alleged in this complaint.

9 **NINTH CLAIM FOR RELIEF**

10 **(COMMON LAW FRAUD BY ALL PLAINTIFFS**
11 **AGAINST ALL DEFENDANTS AND DOES 1 TO 10)**

12 181. Plaintiffs incorporate by reference all preceding and subsequent
13 paragraphs as though fully set forth herein.

14 182. As alleged above, Defendants committed fraudulent acts against
15 Plaintiffs both by affirmative misrepresentations and by intentional concealment.

16 183. Defendants concealed from Plaintiffs their lack of registration,
17 certification and licensure as set forth herein. Minnesota Life, the Heritage
18 Defendants, and Shurwest held themselves out as investment advisers and brokers.
19 However, none of them were registered, licensed, or certificated to act as such and
20 they never disclosed this to Plaintiffs.

21 184. Minnesota Life committed affirmative misrepresentations by
22 identifying Bieser as an "advisor" when in fact he was not registered, licensed, or
23 certificated as a financial/investment advisor or as a broker. It is also liable for the
24 fraud of its agents Albert, Jeanette, and Bieser.

25 185. GoldStar and Shurwest concealed from Plaintiffs the fact that they
26 were not qualified to transact business with them as California residents.

1 186. Defendants concealed the fact that the FIP securities were not properly
2 registered or exempt from registration. Defendants also concealed from Plaintiffs
3 regulatory actions and litigation against FIP which ultimately led to FIP's demise.

4 187. Defendants knew or reasonably should have known that their conduct
5 was fraudulent. Defendants also intended to defraud Plaintiffs.

6 188. Defendants owed fiduciary or similar duties to Plaintiffs such that
7 Plaintiffs were justified in relying on Defendants' misstatements and concealment.
8 The nature of the relationship between Plaintiffs and Defendants in which Plaintiffs
9 reposed trust and confidence in Defendants, justified their reliance on Defendants.

10 189. Defendants' fraudulent concealment and misrepresentation
11 proximately caused Plaintiffs' harm.

12 190. Each Defendant is also liable as a co-conspirator who participated in
13 and profited from the alleged misconduct.

14 191. As alleged above, Defendants engaged in their actions and omissions
15 intentionally with malice, oppression, or fraud pursuant to California Civil Code
16 §3294. Further, the individuals who committed these wrongful acts and omissions
17 were either officers, directors, or managing agents of the entity Defendants or the
18 entity Defendants authorized their employees' misconduct or subsequently adopted
19 or approved their wrongful conduct such that the entity Defendants are liable for
20 punitive damages based on their employees'/agents' conduct.

21 **TENTH CLAIM FOR RELIEF**

22 **(CONSTRUCTIVE FRAUD BY ALL PLAINTIFFS**
23 **AGAINST ALL DEFENDANTS AND DOES 3 TO 7)**

24 192. Plaintiffs incorporate by reference all preceding and subsequent
25 paragraphs as though fully set forth herein.

26 193. Defendants occupied a fiduciary or similar position of trust with
27 respect to Plaintiffs, for, among other things, holding themselves out to be brokers
28 and/or investment advisers.

1 194. As alleged above Defendants committed multiple fraudulent acts
2 against Plaintiffs both by affirmative misrepresentations and by intentional
3 concealment.

4 195. Defendants concealed from Plaintiffs their lack of registration,
5 certification and licensure as set forth herein. Minnesota Life, GoldStar, the
6 Heritage Defendants, and Shurwest held themselves out as investment advisers and
7 brokers. However, none of them were registered, licensed, or certificated to act as
8 such and they never disclosed this to Plaintiffs.

9 196. Minnesota Life and GoldStar committed affirmative
10 misrepresentations by identifying Bieser as an “advisor” and an “account
11 representative,” respectively, when in fact he was not registered, licensed, or
12 certificated as a financial/investment advisor or as a broker. Minnesota Life is also
13 liable for the fraud of its agents Albert, Jeanette, and Bieser.

14 197. GoldStar and Shurwest concealed from Plaintiffs the fact that they
15 were not qualified to transact business with them as California residents.

16 198. Defendants concealed the fact that the FIP securities were not properly
17 registered or exempt from registration. Defendants also concealed from Plaintiffs
18 regulatory actions and litigation against FIP which ultimately led to FIP’s demise.

19 199. Defendants knew or reasonably should have known that their conduct
20 was fraudulent.

21 200. Defendants’ fraudulent concealment and misrepresentation
22 proximately caused Plaintiffs’ harm.

23 201. Each Defendant is also liable as a co-conspirator who participated in
24 and profited from the alleged misconduct.

25 202. Defendants engaged in their actions and omissions intentionally with
26 malice, oppression, or fraud pursuant to California Civil Code §3294 and are liable
27 for punitive damages.
28

ELEVENTH CLAIM FOR RELIEF

**(NEGLIGENT MISREPRESENTATION BY ALL PLAINTIFFS
AGAINST ALL DEFENDANTS AND DOES 1 TO 10)**

203. Plaintiffs incorporate by reference all preceding and subsequent paragraphs as though fully set forth herein.

204. As alleged above, Defendants made affirmative misrepresentations to, and intentionally concealed material information from, Plaintiffs.

205. Defendants concealed from Plaintiffs their lack of registration, certification and licensure as set forth herein. Minnesota Life, GoldStar, the Heritage Defendants, and Shurwest held themselves out as investment advisers and brokers. However, none of them were registered, licensed, or certificated to act as such and they never disclosed this to Plaintiffs.

206. Minnesota Life committed affirmative misrepresentations by identifying Bieser as an “advisor” when in fact he was not registered, licensed, or certificated as a financial/investment advisor or as a broker. It is also liable for the fraud of its agents Albert, Jeanette, and Bieser.

207. GoldStar and Shurwest concealed from Plaintiffs the fact that they were not qualified to transact business with them as California residents.

208. Defendants also concealed the fact that the FIP securities were not properly registered or exempt from registration. Defendants also concealed from Plaintiffs regulatory actions and litigation against FIP which ultimately led to FIP’s demise.

209. Defendants knew or reasonably should have known that their conduct was fraudulent.

210. Although Defendants may have honestly believed that their representations were true or that they had no duty to disclose information that they failed to disclose to Plaintiffs, Defendants had no reasonable grounds for their belief at the time of their misrepresentation or omission.

1 211. Defendants intended for Plaintiffs to rely on their misrepresentations
2 and omissions.

3 212. As fiduciaries, Plaintiffs were justified in relying on Defendants'
4 misstatements and concealment. The nature of the relationship between Plaintiffs
5 and Defendants in which Plaintiffs reposed trust and confidence in Defendants,
6 justified their reliance on Defendants.

7 213. Defendants' omissions and misrepresentations proximately caused
8 Plaintiffs' harm.

9 214. Each Defendant is also liable as a co-conspirator who participated in
10 and profited from the alleged misconduct.

11 215. Defendants engaged in their actions and omissions intentionally with
12 malice, oppression, or fraud pursuant to California Civil Code §3294 and are liable
13 for punitive damages.

14 **TWELFTH CLAIM FOR RELIEF**

15 **(NEGLIGENCE BY ALL PLAINTIFFS**

16 **AGAINST ALL DEFENDANTS AND DOES 1 TO 10)**

17 216. Plaintiffs incorporate by reference all preceding and subsequent
18 paragraphs as though fully set forth herein.

19 217. Per California *Civil Code* § 3372, Defendants were persons "engaged
20 in the business of advising others for compensation as to the advisability of
21 purchasing, holding or selling property for investment and who represent[ed]" and
22 as such had a duty to perform with "the due care and skill reasonably to be expected
23 of a person who is such an expert."

24 218. Defendants breached these duties as alleged in this complaint.

25 219. Defendants' breaches proximately caused Plaintiffs' harm.

26 220. As a result of Defendants' negligence, Plaintiffs suffered serious
27 emotional distress.
28

1 221. Each Defendant is also liable as a co-conspirator who participated in
2 and profited from the alleged misconduct.

3 222. Defendants' negligence was a substantial factor in causing Plaintiffs'
4 serious emotional distress.

5 **THIRTEENTH CLAIM FOR RELIEF**

6 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY ALL**
7 **PLAINTIFFS AGAINST ALL DEFENDANTS AND DOES 1 TO 10)**

8 223. Plaintiffs incorporate by reference all preceding and subsequent
9 paragraphs as though fully set forth herein.

10 224. Defendants' conduct as alleged in this complaint was outrageous.

11 225. Either Defendants intended to cause Plaintiffs emotional distress or
12 Defendants acted with reckless disregard of the probability that Plaintiffs would
13 suffer emotional distress as a result of Defendants' conduct.

14 226. Each Defendant is also liable as a co-conspirator who participated in
15 and profited from the alleged misconduct.

16 227. Plaintiffs suffered severe emotional distress.

17 228. Defendants' conduct was a substantial factor in causing Plaintiffs'
18 severe emotional distress.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
21 them, as follows:

- 22 1. Statutory damages, including rescission of Plaintiffs' transactions;
- 23 2. Compensatory damages in an amount according to proof, but not less
24 than \$1,300,000;
- 25 3. Special damages in an amount according to proof;
- 26 4. General damages in an amount according to proof;
- 27 5. An accounting of all of Plaintiffs' transactions;
- 28 6. Restitution and unjust enrichment in an amount according to proof;

1 7. Treble damages under any statute or law providing such entitlement,
2 including Cal. *Code of Civ. Proc.* § 1029.8 and Cal. *Civ. Code* § 3345;

3 8. Attorneys' fees and costs of suit under any agreement, statute, or law
4 providing such entitlement, including Cal. *Corp. Code* § 25501.5(b), Cal. *Wel. &*
5 *Inst. Code* § 15657.5(a), Cal. *Code of Civ. Proc.* § 1029.8;

6 9. For pre-judgment interest on all damages at the maximum legal rate;

7 10. For punitive and exemplary damages under Cal. *Civ. Code* §§ 3294 and
8 3345;

9 11. For treble damages pursuant to Cal. *Pen. Code* § 496(c);

10 12. For an injunction prohibiting Defendants from continuing to violate Cal.
11 *Bus. & Prof. Code* §§17200, *et seq.* and the CLRA, Cal. *Civ. Code* § 1750 *et seq.*;
12 and equitable remedies including but not limited to rescission, restitution, civil
13 penalties; and

14 13. For such other further relief as the court may deem just and proper.

15 **JURY DEMAND**

16 Plaintiffs demand trial by jury as to all issues so triable in this action.

17
18 **REIF LAW GROUP, P.C.**

19 Dated: December 27, 2018 By: Ohia Amadi

20 Brandon S. Reif

21 Marc S. Ehrlich

22 Ohia A. Amadi

23 Jon C. Furgison

24 **FURGISON LAW GROUP, P.C.**

25 *Attorneys for Plaintiffs*
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